

1 HUNTER PYLE (SBN 191125)
2 CHAD SAUNDERS (SBN 257810)
3 HUNTER PYLE LAW
4 428 Thirteenth Street, Eleventh Floor
5 Oakland, California 94612
6 Telephone: (510) 444-4400
7 Facsimile: (510) 444-4410
8 Emails: hunter@hunterpylelaw.com; csaunders@hunterpylelaw.com

9 Attorneys for Plaintiffs RONDA AUSTIN,
10 CHRISTOPHER CORDUCK, ERNEST DIAL,
11 BILLY WAYNE GIBSON and BOBBY G. SMITH

12 MOLLIE M. BURKS (SBN 222112)
13 NICHOLAS A. DEMING (SBN 287917)
14 GORDON & REES SCULLY MANSUKHANI LLP
15 275 Battery Street, Suite 2000
16 San Francisco, CA 94111
17 Telephone: (415) 986-5900
18 Facsimile: (415) 986-8054
19 Emails: mburks@gordonrees.com; jbriscoe@gordonrees.com

20 Attorneys for Defendant
21 FOODLINER, INC.

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23 **UNITED STATES DISTRICT COURT**
24 **NORTHERN DISTRICT OF CALIFORNIA**
25 **SAN FRANCISCO DIVISION**
26

27 RONDA AUSTIN, CHRISTOPHER
28 CORDUCK, ERNEST DIAL, BILLY
WAYNE GIBSON, and BOBBY G. SMITH,
on behalf of themselves and others similarly
situated;

Plaintiffs,

vs.

FOODLINER, INC.,

Defendant.

Case No. 4:16-cv-07185-HSG

**STIPULATION REGARDING FILING
OF FIRST AMENDED COMPLAINT**

1 Plaintiffs RONDA AUSTIN, CHRISTOPHER CORDUCK, ERNEST DIAL, BILLY
2 WAYNE GIBSON, and BOBBY G. SMITH ("Plaintiffs") and Defendant FOODLINER, INC.
3 ("Defendant" or "FOODLINER") (together with Plaintiffs, "the Parties") hereby submit the
4 following stipulation and proposed order for Plaintiffs to file a first amended complaint.

5 WHEREAS, Plaintiffs filed their initial complaint in Alameda County Superior Court
6 on November 3, 2016;

7 WHEREAS, Defendant answered the complaint on December 13, 2016;

8 WHEREAS, Defendant removed the case to the U.S. District Court for the Northern
9 District of California on December 16, 2016;

10 WHEREAS, Plaintiffs filed a complaint in Alameda County Superior Court alleging
11 violations of the California Labor Code pursuant to the Private Attorneys General Act of 2004
12 ("PAGA") on January 18, 2017 ("PAGA action");

13 WHEREAS, the Parties met and conferred through counsel and agreed to attempt to
14 settle both actions through private mediation before Mark Rudy, Esq., which took place on
15 August 16, 2017;

16 WHEREAS, after the unsuccessful mediation, counsel for the Parties met and conferred
17 regarding the PAGA action and Plaintiffs' intention to file an amended complaint in this action.
18 As a result of those discussions, Plaintiffs now seek to file a First Amended Complaint in order
19 to conform to the Federal Rules of Civil Procedure and to add the claims in the PAGA action to
20 this action;

21 WHEREAS, Defendant agrees to the filing of the proposed First Amended Complaint,
22 which is attached hereto as Exhibit A;

23 WHEREAS, Defendant agrees that the PAGA claims in the First Amended Complaint
24 will relate back to the filing of the PAGA action on January 18, 2017; and

25 WHEREAS, the Parties agree that Defendant's stipulation to allow the filing of the
26 proposed First Amended Complaint will not serve to waive any defenses or objections, except as
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1 regards the statute of limitations for the PAGA claims, to any of the causes of action, or to the
2 First Amended Complaint, and without admitting anything contained therein to be true.

3 Based on the foregoing, the Parties, by and through their counsel of record and subject to
4 this Court's approval, hereby stipulate and agree as follows:

- 5 1. Plaintiffs shall have leave to file the First Amended Complaint attached hereto as
6 Exhibit A;
- 7 2. Defendant's counsel will accept service of the First Amended Complaint;
- 8 3. Defendant reserves all rights, defenses, and objections to the claims set forth in
9 Plaintiffs' First Amended Complaint, except as regards the statute of limitations for
10 the PAGA claims; and
- 11 4. Defendant will have thirty (30) days after their counsel is served with the First
12 Amended Complaint to file a responsive pleading.

13 IT IS SO STIPULATED.

14 DATED: October 16, 2017

HUNTER PYLE LAW

16 By: /s/ Chad Saunders

17 Hunter Pyle
18 Chad Saunders

19 Attorneys for Plaintiffs RONDA AUSTIN,
20 CHRISTOPHER CORDUCK, ERNEST
DIAL, BILLY WAYNE GIBSON and
BOBBY G. SMITH

21 DATED: October 16, 2017

GORDON & REES SCULLY
MANSUKHANI LLP

23 By: /s/ Nicholas A. Deming

24 Mollie M. Burks
25 Nicholas A. Deming

26 Attorneys for Defendant
27 FOODLINER, INC.

1 IT IS SO ORDERED.

2 Dated: October 17, 2017

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4 Hon. Haywood S. Gilliam, Jr.

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